

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

<b>SANCHITA MAL-SARKAR,</b>	:	<b>CASE NO. 1:07-cv-2868</b>
<b>Administratrix of Estate of Tarun Mal</b>	:	
	:	<b>JUDGE SOLOMON OLIVER, JR.</b>
<b>Plaintiff</b>	:	<b>MAGISTRATE BAUGHMAN</b>
<b>v.</b>	:	
	:	<b>DEFENDANT, LEVITON, LEVITON</b>
<b>ADVANCE et al.</b>	:	<b>MANUFACTURING, INC., AND</b>
	:	<b>LEVITON MANUFACTURING</b>
<b>Defendants</b>	:	<b>COMPANY, INC. ANSWER TO</b>
	:	<b>PLAINTIFF'S COMPLAINT WITH</b>
	:	<b>JURY DEMAND</b>

For their separate answer to the Complaint, Leviton, Leviton Manufacturing, Inc. and Leviton Manufacturing Company, Inc. ("Leviton") state as follows:

**COUNT ONE**  
**FIRST DEFENSE**

1. Admit that Leviton manufactures electrical receptacles and deny the remainder of the allegations in paragraphs one (1) through eleven (11) of the Complaint.

**COUNT TWO**  
**FIRST DEFENSE**

2. Deny the allegations in paragraphs twelve (12) through twenty-two (22) of the Complaint.

**COUNT THREE**  
**FIRST DEFENSE**

3. Deny the allegations in paragraphs twenty-three (23) through twenty-five (25) of the Complaint.

**COUNT FOUR**  
**FIRST DEFENSE**

4. Deny each and every allegation in paragraphs twenty-six (26) through thirty-three (33) of the Complaint.

**COUNT FIVE**  
**FIRST DEFENSE**

5. Deny the allegations in paragraphs thirty-four (34) through thirty-six (36) of the Complaint and any other allegation not specifically admitted to be true.

**SECOND DEFENSE**  
**AFFIRMATIVE DEFENSE**

6. The injuries and/or damages, if any, sustained by the Plaintiff were caused or contributed to by the direct and proximate negligence or fault of parties or persons other than this Defendant, and accordingly, in the event that they are found to be liable to Plaintiff, which liability is expressly denied, they will be entitled to a finding of comparative negligence or fault and thereafter to indemnification, contribution or apportionment pursuant to applicable law.

**THIRD**  
**AFFIRMATIVE DEFENSE**

7. Plaintiff's decedent assumed the risk of injuries such as to bar any recovery herein or alternatively, such as to reduce any recovery to which the Plaintiff or Plaintiff's decedent would otherwise be entitled by a proportion equal to the percentage that such assumption of the risk represents to the total fault, if any for the incident alleged to have incurred in Plaintiff's Complaint.

**FOURTH**  
**AFFIRMATIVE DEFENSE**

8. The damages, if any, sustained by the Plaintiff or Plaintiff's decedent were a direct result of an independent, intervening and/or superseding act by some other person and/or company and/or corporation not under the control of these Defendants.

**FIFTH**  
**AFFIRMATIVE DEFENSE**

9. The Plaintiff has failed to join necessary and/or indispensable parties pursuant to Rule 19 of the Ohio Rules of Civil Procedure.

**SIXTH**  
**AFFIRMATIVE DEFENSE**

10. These Defendants are entitled to a set-off and/or reduction in any verdict and/or judgment rendered in an amount equivalent to collateral benefits and/or settlement monies paid to or on behalf of the Plaintiff of Plaintiff's decedent pursuant to Ohio law.

**SEVENTH**  
**AFFIRMATIVE DEFENSE**

11. The common law product liability claims may be preempted by Ohio Product Liability statute.

**EIGHTH**  
**AFFIRMATIVE DEFENSE**

12. Any products manufactured by Leviton were materially altered, misused, abused and/or modified from their original condition after their initial sale and such alteration, misuse, abuse and/or modification was the proximate cause of Plaintiff's decedent's damages as alleged in Plaintiffs' Complaint.

**NINTH**  
**AFFIRMATIVE DEFENSE**

13. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

**TENTH**  
**AFFIRMATIVE DEFENSE**

14. These Defendants assert and are entitled to all statutory defenses available under tort reform and the imposition of punitive damages against these Defendants violates both the Ohio and United States Constitutions.

**ELEVENTH**  
**AFFIRMATIVE DEFENSE**

15. All or part of the Plaintiff's claims may be preempted by federal law.

**TWELFTH**  
**AFFIRMATIVE DEFENSE**

16. All or part of Plaintiff's claim may be barred by laches and/or the applicable statute of limitations or repose.

Wherefore, Defendants, Leviton, Leviton Manufacturing, Inc. and Leviton Manufacturing Company, Inc. demand judgment in their favor against the Plaintiffs, together with costs, including attorneys' fees, and for such other relief as the Court deems just and proper.

Respectfully submitted,

**WILES, BOYLE, BURKHOLDER &  
BRINGARDNER CO., L.P.A.**

s/James M. Wiles

James M. Wiles (0007441)

Dale D. Cook (0020707)

Mark C. Melko (0069396)

300 Spruce Street, Floor One

Columbus, OH 43215

PH: (614) 221-5216

FAX: (614) 221-5692

*Counsel for Defendant, Leviton, Leviton  
Manufacturing Company and Leviton  
Manufacturing Company Inc.*

**JURY DEMAND**

Defendants requests a trial by jury of the within action by the maximum number of jurors allowed.

Respectfully submitted,

**WILES, BOYLE, BURKHOLDER &  
BRINGARDNER CO., L.P.A.**

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PH: (614) 221-5216

FAX: (614) 221-5692

*Counsel for Defendant, Leviton, Leviton  
Manufacturing Company and Leviton  
Manufacturing Company Inc.*

**CERTIFICATE OF SERVICE**

The foregoing Answer with Jury Demand by Defendants, Leviton, Leviton Manufacturing, Inc. and Leviton Manufacturing Company, Inc. was electronically filed and served on the following on **September 25, 2007**.

W. Craig Bashein  
Thomas J. Sheehan  
Bashein & Bashein Co L.P.A.  
Terminal Tower, 35<sup>th</sup> Floor  
50 Public Square  
Cleveland, OH 44113  
*Counsel for Plaintiff*

Paul W. Flowers  
Paul W. Flowers Co., L.P.A.  
Terminal Tower, 35<sup>th</sup> Floor  
50 Public Square  
Cleveland, OH 44113  
*Counsel for Plaintiff*

Paul Schumacher, Jr.,  
Gallagher Sharp  
Sixth Floor, Bulkley Building  
1501 Euclid Avenue  
Cleveland, OH 44115  
*Counsel for Defendant, Cooper Industries and Eagle*

Kerry.C. Green  
Dinsmore & Shohl LLP  
255 East Fifth Street,  
Suite 1900  
Cincinnati, OH 45202  
*Counsel for Bryant Electric and Bryant and Hubbell, Inc.*

Andrew Stienecker  
Weston Hurd, LLP  
The Tower at Erieview  
1301 East 9<sup>th</sup> Street, Suite 1900  
Cleveland, OH 44114-1862  
*Counsel for Defendant, Acuity Brands Lighting, Inc.*

Alan Rutz  
William D. Kloss, Jr.  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street, PO Box 1008  
Columbus, OH 43216-1008  
*Counsel for Defendants, Intermatic, Intermatic, Inc. and Intermatic, Incorporated*

Brian N. Ramm  
Ulmer & Berne LLP  
1660 West 2<sup>nd</sup> Street,  
Suite 1100  
Cleveland, OH 44113-1448  
*Counsel for Defendant, Advance (Philips)*

s/James M. Wiles  
James M. Wiles (0007441)  
Dale D. Cook (0020707)  
Mark C. Melko (0069396)  
*Counsel for Defendant, Leviton, Leviton Manufacturing, Inc. and Leviton Manufacturing Company, Inc.*